



12 JAN 2007

MEREK, BLACKMON & VOORHEES, LLC
673 S. WASHINGTON ST
ALEXANDRIA VA 22314

In re Application of
KUWAHARA (Deceased)
Application No.: 10/573,483
PCT No.: PCT/JP03/13884
Int. Filing Date: 29 October 2003
Priority Date: None
Attorney Docket no.: KAS.074
For: SPRAY GUN

DECISION ON
REQUEST
UNDER 37 CFR 1.42

This is a decision on applicant's request under 37 CFR 1.42¹ filed in the United States Patent and Trademark Office (USPTO) on 24 March 2006.

On 24 March 2006, applicant filed a request for entry into the U.S. national stage under 35 U.S.C. 371(c) along with, *inter alia*, the basic national fee and declaration on behalf of the deceased sole inventor.

37 CFR 1.497(a)(3) requires that the declaration identify each inventor and the country of citizenship of each inventor. 37 CFR 1.497(b)(2) requires the declaration to state the relationship of the person (under 37 CFR 1.42) making the declaration for a deceased inventor. 37 CFR 1.497(b)(2) further states that, if the person signing the oath or declaration is the legal representative of a deceased inventor, the oath or declaration must state that the person is a legal representative and indicate the citizenship, residency and mailing address of the legal representative. The declaration must also state the citizenship, residency and last mailing address of the deceased inventor to comply with 37 CFR 1.497(a)(3).

The declaration executed by the legal representative for deceased inventor Hiroomi Kuwahara does not meet the requirements of 37 CFR 1.497(b). Although the declaration identifies Shigemi Kuwahara as the legal representative of deceased inventor Hiroomi Kuwahara, the declaration is defective because it does not state the country of citizenship, former residency and mailing address for *both* the deceased inventor and the legal representative, to meet the requirements for compliance with 37 CFR 1.497.

What is required is a declaration, identifying the sole inventor and executed by Shigemi Kuwahara, which identifies her as legal representative for deceased inventor Hiroomi Kuwahara. The declaration must provide legal representative's citizenship, residency and mailing address and identify the deceased inventor, providing his citizenship, former residency and mailing address on the declaration. See 37 CFR 1.497(b)(2).

¹ 37 CFR § 1.42 requires that in the case of the death of the inventor, the legal representative of the deceased inventor may make the necessary oath or declaration, and apply for and obtain a patent.

Accordingly, it is inappropriate, at this time, to accord the application status under 37 CFR 1.42.

CONCLUSION

For the above reasons, the request for status under 37 CFR 1.42 is **DISMISSED WITHOUT PREJUDICE.**

The declaration by the legal representative for deceased inventor Hiroomi Kuwahara submitted on 24 March 2006 cannot be accepted as a proper declaration under 37 CFR 1.497(a) and (b) and 1.42 at this time.

Applicants are required to submit a new declaration executed by the legal representative for deceased inventor Hiroomi Kuwahara **TWO (2) MONTHS** from the mail date of this decision. Extensions of time are available under 37 CFR 1.136(a).

Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.


Cynthia M. Kratz
Attorney Advisor
PCT Legal Office

Telephone: 571-272-3286
Facsimile: 571-273-0459